

My Property Has Wetlands!!! What Does that Mean??

Wetland Regulations and Permit Process

Conservation Commission and its Authority: The Newton Conservation Commission is a 7-member volunteer board responsible for administering the Massachusetts Wetlands Protection Act (WPA) and regulations (310 CMR 10.00).

Regulated Areas and Activities: Property owners must seek permission from the Conservation Commission for any proposed work within 100-feet of a wetland, seasonal stream, pond, etc. or within 200-feet of a perennial (flowing year-round) stream. "Work" includes any land-altering activities such as cutting perennial vegetation, expanding a lawn, grading, and building. Some "minor activities" are specifically exempted by the regulations.

Permittable Activities: Very few activities are allowed in wetlands. Many activities within the 100-foot buffer zone are allowed with a permit, as long as all activity is at least 25-feet away from the edge of the wetland resource area and measures are taken to protect or enhance the wetland. Many activities within the 200-foot riverfront area are allowed with a permit as long as a vegetated buffer is maximized. The state regulations lay out the details of what is permissible.

Application/Permit Options:

1. Administrative Approval: Some minor or emergency projects can be approved by the Conservation Agent (call the office for details)
2. Request for Determination of Applicability (RDA): Appropriate for some smaller projects not likely to adversely impact the wetland.
3. Notice of Intent (NOI): Appropriate for medium and large projects with noticeable disturbance.

Permit Process: To conduct work in a regulated area, you will need to get a permit from the ConCom.

1. Hire a wetland scientist to flag the wetlands, streams, ponds, etc.
2. Hire a surveyor/engineer/landscape architect to create a plot plan showing:
 - Existing conditions (house, driveway, yard, trees, grading)
 - Existing wetlands, 100-foot Buffer Zone, Riverfront Area, etc.
 - Proposed work (grading, construction, tree clearing, limit of work)
3. Fill out a wetland application (checklists are available on the ConCom website). This may be done by you or your engineer/wetland scientist. (Note: Riverfront Area projects have extra requirements, see page 2)
4. Submit application and plan to the Conservation Commission (and DEP).
5. Get a date and time for a hearing at City Hall (hearings are held on Thursday nights, every 3 weeks).
6. Send "Notification to Abutters" letter via certified mail (if you submit an NOI, not if you submit an RDA).
7. Stake out proposed structures and limits of work. (The Conservation Administrator will conduct a site visit.)
8. Present the project at the Commission's public hearing.
9. Receive your permit (Order of Conditions) approving the project, record your permit, schedule your pre-construction site visit.

Note: Other permits may be needed to perform the work, e.g., Building, Engineering, Historical.

Preliminary Property Review – to be completed by Conservation Agent

A. Address: _____ Owner: _____

B. **Wetland resource areas or buffer zones:** According to our maps & records, at least a portion of the property is within wetland resource areas or buffer zones protected by the Wetlands Protection Act. Specifically, the property has on it:

- ☐ Wetland Resource Area (wetland, marsh, pond, intermittent stream, or 100-year flood zone)
- ☐ 100-foot Buffer Zone of a Wetland Resource Area (wetland, marsh, pond, bank, stream, etc.).
- ☐ Riverfront Area (land within 200 feet of the bank of a perennial stream or river). SEE PAGE 2

C. **Special Circumstances:** _____

Work in Riverfront Area – extra analyses are required

The area within 200-feet of any perennial stream* is called Riverfront Area. (Perennial streams are those which flow year-round and are shown as perennial streams on the 1987 USGS Map.) Riverfront Area is considered a Wetland Resource Area and has fairly stringent performance standards in the Massachusetts Wetlands Protection Act and Regulations. *[Note: A stream shown as perennial can be ‘delisted’ to an intermittent stream by documenting that the stream is dry for at least 4 days during a calendar year during non-drought conditions. The days do not need to be sequential but the photographs must be taken by a professional wetland scientist or engineering firm. See 310 CMR 10.58(2)(a)(1)(d).]*

For work in Riverfront Area

1. Follow the steps shown in **Permit Process** section on page 1.
2. **Include in your permit application:**
 - 2a. For **most work in Riverfront Area** (see 310 CMR 10.58(4)):
 - Written Alternatives Analysis demonstrating that there are “no practicable and substantially equivalent economic alternatives to the proposed project with less adverse effects...” See 310 CMR 10.58(4). “The Alternatives Analysis may reduce the scale of the activity...”
 - Proof of “no significant adverse impact”
 - A plan providing a 100-foot wide area of undisturbed vegetation (to the maximum extent practicable)
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 - Proposed work does not impair the riverfront area from providing important wildlife habitat functions
 - Erosion and sedimentation control
 - Or
 - 2b. For **“redevelopment projects”** (see 310 CMR 10.58(5)):
 - Proof of “improvement”
 - Stormwater is managed
 - Proposed work no closer to the river than existing conditions or 100-feet, whichever is less
 - Proposed work located outside the riverfront area or away from the river
 - The area of proposed work not exceeding the amount of degraded area ...
 - BUT the proposed work may alter up to 10% if the degraded area is less than 10% of the riverfront area and if there is sufficient restoration and/or mitigation there is some allowance for new degraded areas
 - AND there is a prohibition on further alteration within the restoration or mitigation area
3. **Create a chart showing existing vs. proposed conditions in the Riverfront Area** as follows.

Riverfront Resource Area Disturbance Table

	0-100 Foot Riverfront			100-200 Foot Riverfront		
	Existing	Proposed	Difference	Existing	Proposed	Difference
Degraded – absence of top soil. i.e. roof, driveway, patios						
Disturbed – lawn, landscaping						
Natural (wooded, field, etc.)						
Total Disturbance						

Special Circumstances

- _____
- _____